

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

KEVIN NORRIS,

Petitioner,

v.

STEVEN O'BRIEN,

Respondent.

Civil Action No. 05-11353-MLW

**RESPONDENT'S MEMORANDUM OF LAW IN SUPPORT OF HIS MOTION
TO DISMISS PETITION FOR WRIT OF HABEAS CORPUS AS TIME-BARRED**

The respondent, Steven O'Brien, respectfully submits this memorandum of law in support of his motion to dismiss the petition for a writ of habeas corpus filed by the petitioner, Kevin Norris ("Norris"). The petition must be dismissed as time-barred under 28 U.S.C. § 2244(d), the statute of limitations for federal habeas corpus petitions, which is contained in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). Norris's conviction became final on July 28, 1996. Therefore, Norris had to file his federal habeas petition before the lapse of the one year statute of limitations on July 28, 1997. However, Norris did not bring this petition until June 27, 2005, more than seven years after the limitations period lapsed. Moreover, the statute of limitations was not tolled at any point between July 28, 1996 and July 28, 1997. Accordingly, the petition is untimely and should be dismissed.

PRIOR PROCEEDINGS

On July 17, 1992, a Suffolk County jury convicted Norris of three counts of aggravated rape; three counts of armed robbery; one count of assault and battery with a dangerous weapon; and one count of assault with a dangerous weapon. *See* Exhibit A at 7-8. Norris was subsequently sentenced to twenty-five to forty years in state prison. *Id.* at 8. On July 21, 1992,

Norris filed a Notice of Appeal. *Id.* The Appeals Court of Massachusetts affirmed the conviction in an unpublished opinion pursuant to Mass. R. App. Prac. 1:28 on March 7, 1996. *Commonwealth v. Norris*, 40 Mass. App. Ct. 1107 (1996). Norris' application for further appellate review was denied on April 29, 1996. *Commonwealth v. Norris*, 422 Mass. 1107 (1996).

On May 20, 1998, Norris filed his first motion for new trial in the Suffolk Superior Court. *See* Exhibit A at 9. That motion was denied on May 29, 1998 by Donovan, RAJ. *Id.* Norris filed a notice of appeal from the denial of his motion on June 19, 1998. *Id.* In a Rule 1:28 decision on October 22, 1999, the Appeals Court affirmed the denial of the motion for new trial and motion for reconsideration. *Commonwealth v. Norris*, 48 Mass. App. Ct. 1105 (1999). Norris's application for further appellate review was denied on September 08, 2000. *Commonwealth v. Norris*, 432 Mass. 1108 (2000).

On August 26, 2002, Norris filed his second motion for new trial claiming newly discovered evidence. *See* Exhibit A at 10. The motion was denied by the Suffolk Superior Court without a hearing on January 9, 2003 by Spurlock, RAJ, and Norris once again appealed. *Id.* at 11. While that appeal was pending, Norris filed his third motion for new trial on February 21, 2003. *Id.* The third motion for new trial was also denied without a hearing by the Suffolk Superior Court on March 28, 2003 (Spurlock, RAJ). *Id.* at 12. Norris again appealed to the Appeals Court, which consolidated the two pending appeals. On April 29, 2004 the Appeals Court affirmed the denial of the second and third motions for new trial. *Commonwealth v. Norris*, 61 Mass. App. Ct. 1102 (2004). On June 30, 2004, the Supreme Judicial Court denied Norris' third application for further appellate review. *Commonwealth v. Norris*, 442 Mass. 1104

(2004).

On June 27, 2005, twelve years after his conviction and 7 years after the lapse of the statute of limitations period, Norris filed the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, and the respondent hereby files this memorandum of law in support of the motion to dismiss.

ARGUMENT

A. The Petition Must Be Dismissed as Time-Barred Under the Statute of Limitations for Federal Habeas Corpus Petitions.

Norris's petition for a writ of habeas corpus must be dismissed under the statute of limitations enacted by Congress as part of the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), 28 U.S.C. § 2244(d), which became effective April 24, 1996. That provision, which is applicable to federal habeas corpus petitions filed by state prisoners, provides as follows:

(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of-

(A) *the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;*

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims

presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

28 U.S.C. § 2244(d) (emphasis added).

In the instant case, the Supreme Judicial Court denied Norris's application for further appellate review on April 29, 1996. *Commonwealth v. Norris*, 422 Mass. 1107 (1996). Allowing ninety (90) days in which the petitioner could file a petition for a writ of certiorari with the United States Supreme Court, Norris's conviction became final on July 28, 1996. *See* 28 U.S.C. § 2244(d)(1)(A). Norris had until July 28, 1997 to bring a habeas action in federal court. This federal habeas petition was not filed until June 27, 2005, twelve years after his conviction became final and seven years after the lapse of the limitation period. Therefore, this petition is time-barred and must be dismissed. *See* 28 U.S.C. § 2244(d); *see also Lattimore v. Dubois*, 311 F.3d 46, 53-54 (1st Cir. 2002)(holding that a petition filed even one day late for the statute of limitations deadline must be dismissed as untimely).

B. The Tolling Provision Set Forth in 28 U.S.C. § 2244(d)(2) Does Not Apply Where Norris Failed to Initiate State-Court Proceedings Before July 29, 1997.

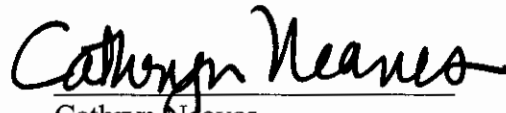
Furthermore, Norris is not entitled to rely on the tolling provision set forth in 28 U.S.C. § 2244(d)(2) where he failed to initiate state-court proceedings before July 29, 1997. That section tolls the statute of limitations "during [the time] which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending...." *Id.* Norris did not file his first motion for new trial until May 20, 1998. *See* Exhibit A at 9. That motion was succeeded by numerous other motions and appeals. *Id.* at 9-12. Since

all of those events occurred after the one (1) year statute of limitations elapsed on July 28, 1997, they have no impact on the timeliness of Norris's petition. *See, e.g., Demars v. General Dynamics Corp.*, 779 F.2d 95, 98 n.2 (1st Cir. 1985) (no tolling where event occurred outside limitations period). Consequently, the statute of limitations was not tolled and Norris's petition is untimely.

CONCLUSION

For the reasons set forth above, the respondent respectfully requests that this Court dismiss this habeas petition on the grounds that it is time-barred.

Respectfully submitted,
THOMAS F. REILLY
ATTORNEY GENERAL

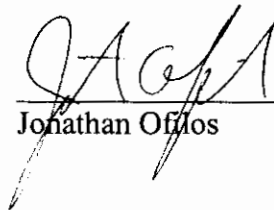
A handwritten signature in black ink, reading "Cathryn Neaves". The signature is written in a cursive, flowing style.

Cathryn Neaves
Assistant Attorney General
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(617) 727-2200, ext. 2557
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Dated: July 25, 2005

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the petitioner, Kevin Norris, on July 25, 2005, by depositing the copy in the office depository for collection and delivery by first-class mail, postage pre-paid, to him as follows: Kevin Norris, *pro se*, North Central Correctional Institution, P.O. Box 466, 500 Colony Road, Gardner, Massachusetts 01440.


Jonathan Offies

**Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v Norris, Kevin

Details for Docket: SUCR1991-25197

Case Information

Docket Number:	SUCR1991-25197	Caption:	Commonwealth v Norris, Kevin
Entry Date:	11/20/1991	Case Status:	Criminal 1 Ctrm 704
Status Date:	11/02/2005	Session:	Disposed: Entered in Appeals Court
Lead Case:	NA	Deadline Status:	Deadline act
Trial Deadline:	03/23/1992	Jury Trial:	YES

Parties Involved

2 Parties Involved in Docket: SUCR1991-25197

Party Involved:		Role:	Defendant
Last Name:	Norris	First Name:	Kevin
Address:	P.O. BOX 466	Address:	
City:	Gardner	State:	MA
Zip Code:	01440	Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Commonwealth	First Name:	
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Attorneys Involved

11 Attorneys Involved for Docket: SUCR1991-25197

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Tel Ext:
Representing:

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Tel Ext:
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Fascimile:

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Tel Ext:

Fascimile: 978-266-0354

Representing: Norris, Kevin (Defendant)

Calendar Events

7 Calendar Events for Docket: SUCR1991-25197

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	02/11/1992	09:30	Hearing: Misc Matters	1	Event held as scheduled
2	03/25/1992	09:30	Hearing: Misc Matters	1	Event canceled not re-scheduled
3	05/18/1992	09:30	Hearing: Misc Matters	1	
4	06/22/1992	09:30	Hearing: Misc Matters	1	Event canceled not re-scheduled
5	01/14/1993	09:30	Hearing: Motion	1	Event canceled not re-scheduled
6	10/03/2000	09:00	Hearing: Post-Sentence	2	Event canceled not re-scheduled
7	12/17/2002	09:00	Hearing: Post-Sentence	2	Event canceled not re-scheduled

Full Docket Entries

349 Docket Entries for Docket: SUCR1991-25197

Entry Date: **Paper No:** **Docket Entry:**

11/21/1991	1	Indictment returned
11/21/1991	2	Motion by Commonwealth for arrest warrant to issue; filed & allowed
11/21/1991	2	(Constance Sweeney, Justice)
11/21/1991		Warrant on indictment issued
11/25/1991		Brought into Court on warrant.
11/25/1991		Appointment of Counsel Taub
11/25/1991		Deft arraigned before Court
11/25/1991		Deft waives reading of indictment
11/25/1991		RE offense #1: Plea of not guilty
11/25/1991		RE offense #2: Plea of not guilty
11/25/1991		RE offense #3: Plea of not guilty
11/25/1991		RE offense #4: Plea of not guilty
11/25/1991		RE offense #5: Plea of not guilty
11/25/1991		RE offense #6: Plea of not guilty
11/25/1991		RE offense #7: Plea of not guilty
11/25/1991		RE offense #8: Plea of not guilty
11/25/1991		RE offense #9: Plea of not guilty
11/25/1991		Bail set: \$500,000.00 with surety or or \$50,000.00 cash without
11/25/1991		prejudice. Mittimus issued.
11/25/1991		Pre-trial conference report ordered for 12/2/91. Wilson, AC/M - R.
11/25/1991		Miller, ADA - L. Lagasse, court reporter- B. Taub, attorney.
12/02/1991		Defendant not in Court.
12/02/1991	3	Pre-trial conference report filed. Continued to January 8, 1992 to
12/02/1991	3	file motions by agreement. Continued to January 15, 1992 by
12/02/1991	3	agreement re: hearing on motions. Wilson, AC/M - R. Miller, ADA - D.
12/02/1991	3	Bell, court reporter - B. Taub attorney.
01/06/1992	4	Motion by Deft: for bill of particulars -
01/06/1992	5	Motion by Deft: for documentation of I.D. procedure -
01/06/1992	6	Motion by Deft: for statements of defendant -
01/06/1992	7	Motion by Deft: for disclosure of witnesses -
01/06/1992	8	Motion by Deft: for fees -
01/06/1992	9	Motion by Deft: to file additional pre-trial motions late.
01/15/1992		Continued to January 28, 1992 by agreement. Wilson, AC/M
01/28/1992		Lobby conference. Continued by agreement to 2/3/92 re: motions.
01/28/1992		Grabau, J - R Miller, ADA - B. Taub, attorney.
02/12/1992		Defendant not in Court. Hearing re: Motions. After hearing, Court
02/12/1992		orders:
02/12/1992		Motion P#4 waived in open Court.
02/12/1992		Motion Paper #5 agreed to.
02/12/1992		Motion Paper #6 agreed to.
02/12/1992		Motion P #7 allowed as amended.

02/12/1992		Motion (P#8) allowed.
02/12/1992		Motion for In-Camera Examination of Records of Alleged Victim, denied
02/12/1992		without prejudice.
02/12/1992		Motion for Information Regarding Interviews with the Complaint and
02/12/1992		for Preservation and Production of all Communications allowed as
02/12/1992		amended.
02/12/1992		Motion for Exculpatory Evidence: Psychiatric History of Alleged
02/12/1992		Victim denied without prejudice.
02/12/1992		Motion for Discovery allowed as endorsed.
02/12/1992		Motion for Disclosure of Medical and Physical Evidence allowed as
02/12/1992		endorsed.
02/12/1992		Continued to February 18, 1992 at request of Commonwealth re: motions
02/12/1992		and trial. Mulligan, J. - R. Miller, ADA - E.R.D. - B. Taub, Attorney
02/18/1992		Defendant not in Court.
02/18/1992	10	Motion by Commonwealth for Order to Compel Defendant to Submit to
02/18/1992	10	Taking of Blood and Saliva filed and allowed.
02/18/1992	11	Deft files Motion for Reconsideration.
02/18/1992	12	Order of Court #1 filed, Mulligan, J.
02/18/1992	13	Order of Court #II filed, Mulligan, J.
02/18/1992		Continued by agreement to February 26, 1992 re:status. Mulligan, J. -
02/18/1992		R. Miller, ADA - J. Gibbs, Court Reporter B. Taub, Attorney
02/26/1992		Defendant not in Court. Continued to March 5, 1992 by agreement re:
02/26/1992		status. G. Wilson, AC/M- W. Shea, ADA - D. Cullinan, Court Reporter
02/27/1992	14	Deft files Motion for Order to Compel Potential Witnesses to Submit
02/27/1992	14	to Taking of Blood and Saliva with Affidavit.
02/27/1992	15	Deft files Motion for an Order that Certain Witnesses be Disposed.
02/27/1992	16	Deft files Motion for Discovery.
02/27/1992	17	Deft files Motion to Suppress Evidence Seized with Memorandum and
02/27/1992	17	Affidavit.
02/27/1992	18	Deft files Motion to Suppress Statements with Memorandum of Law
02/27/1992	18	Affidavit.
03/05/1992		Defendant not in Court. Hearing re: Motions and Status.
03/05/1992		Motion for an Order Compelling Potentially Exculpatory Witnesses to
03/05/1992		Submit to Taking of Blood and Saliva, after hearing, denied.
03/05/1992		Motion for an Order that Certain Witnesses be disposed, after hearing
03/05/1992		denied.
03/05/1992		Motion for Discovery after hearing allowed in part. Doerfer, J. - R.
03/05/1992		Miller, ADA - E.R.D. - B. Taub, Attorney
04/16/1992		Not in Court. Continued to 04/29/92 by agreement. Wilson, AC/M - R.
04/16/1992		Miller, ADA - D. McLean, Court Reporter.
04/29/1992		Not in Court. Continued to 05/05/92 for Motion by agreement. Wilson,

04/29/1992		AC/M - R. Miller, ADA - D. McLean, Court Reporter.
05/04/1992		Not in Court.
05/04/1992	19	Deft files Motion for fees for fingerprint expert filed and allowed
05/04/1992	19	as endorsed. Wilson, AC/M - R. Miller, ADA- D. McLean, Court Reporter
05/04/1992	19	- B. Taub, Attorney.
05/20/1992		Not in Court. Continued to 5/26/92 for status by agreement.
05/20/1992		Wilson, AC/M - R. Miller, ADA - D. McLean, Court Reporter.
05/26/1992		Not in Court. Continued to 6/1/92 motions at request of defendant.
05/26/1992		Wilson, AC/M - R. Miller, ADA - D. McLean, Court Reporter.
06/15/1992	20	Deft files Motion for further discovery: Rape kit records of alleged
06/15/1992	20	victim.
07/13/1992		Motion (P#17) denied Irwin, J.
07/13/1992		Motion (P#18) denied. Court to file findings at later date.
07/13/1992		Commonwealth moves for trial of indictment #92-25197 offenses 001-
07/13/1992		009. Court, Irwin, J orders 14 jurors impanelled for trial. Court
07/13/1992		conducts individual voir dire of prospective jurors. Jury impanelled.
07/13/1992		Continued one day by order of Court.
07/13/1992		Court recognizes witness Lester Joyner personally without surety in
07/13/1992		the sum of \$100.00 for his appearance on 7/15/92. Irwin, J. - R.
07/13/1992		Miller, ADA - N. King, Court Reporter - B. Taub, Attorney.
07/14/1992		Brought into Court. Jury sworn, Commonwealth commences its case in
07/14/1992		chief. Irwin, J. - R. Miller, ADA - N. King, Court Reporter - B.
07/14/1992		Taub, Attorney.
07/15/1992		Brought into Court. Voir Dire hearing wiith certain jurors. Trial
07/15/1992		continues with Commonwealth's case in chief. Commonwealth rests,
07/15/1992		defendant rests. Continued one day for arguments and charge. Irwin,
07/15/1992		J. - R. Miller, ADA - N. King, Court Reporter - B. Taub, Attorney.
07/16/1992		Brought into Court.
07/16/1992	21	Deft files motion for required finding of not guilty, filed.
07/16/1992		Motion (P#21) denied Irwin, J.
07/16/1992		Deft files request for instructions.
07/16/1992		Court appoints juror #11-04 Megan Sykes as foreperson. Upon final
07/16/1992		submission of this case to the jury and the 14 jurors being present
07/16/1992		the Court orders the jury reduced to 12 deliberating jurors and the
07/16/1992		names of juror #10-15 Thomas Capasso and juror #11-9 Margaret Kenney
07/16/1992		were drawn and designated alternates. Deliberaton commences. Irwin,
07/16/1992		J. - R. Miller, ADA - N. King, Court Reporter - B. Taub, Attorney.
07/17/1992		Brought into Court.
07/17/1992		RE offense #1: Guilty verdict
07/17/1992	22	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #2: Guilty verdict

07/17/1992	23	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #3: Guilty verdict
07/17/1992	24	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #4: Guilty verdict
07/17/1992	25	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #5: Not guilty verdict
07/17/1992	26	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #6: Not guilty verdict
07/17/1992	27	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #7: Guilty verdict
07/17/1992	28	Verdict affirmed, verdict slip filed.<
07/17/1992		RE offense #8: Guilty verdict
07/17/1992	29	Verdict affirmed, verdict slip filed.
07/17/1992		RE offense #9: Guilty verdict
07/17/1992	30	Verdict affirmed, verdict slip filed.
07/17/1992	31	Finding of facts, rulings of law and order on defendant's motions to
07/17/1992	31	suppress evidence and statements filed.
07/17/1992		Commonwealth moves for sentencing.
07/17/1992		Sentence imposed: as to offense #003 M.C.I. Cedar Junction not more
07/17/1992		than 40 years, not less than 25 years. Mittimus Issued.
07/17/1992		Sentence imposed: as to offense #007 M.C.I. Cedar Junction not more
07/17/1992		than 40 years, not less than 25 years concurrent with sentence
07/17/1992		imposed on offense #003. Mittimus Issued.
07/17/1992		Sentence imposed: as to offense #008 M.C.I. Cedar Junction not more
07/17/1992		than 40 years, not less than 25 years concurrent with sentence
07/17/1992		imposed on offense #003. Mittimus Issued.
07/17/1992		Sentence imposed: as to offense #009 M.C.I. Cedar Junction not more
07/17/1992		than 40 years, not less than 25 years concurrent with sentence
07/17/1992		imposed on offense #003. Mittimus Issued.
07/17/1992		Sentence imposed: as to offense #001 M.C.I. Cedar Junction not more
07/17/1992		than 40 years, not less than 25 years concurrent with sentence
07/17/1992		imposed on offense #003. Mittimus Issued.
07/17/1992		Sentence imposed: as to offense #002 M.C.I. Cedar Junction not more
07/17/1992		than 5 years, not less than 3 years concurrent with sentence imposed
07/17/1992		on offense #003. Mittimus Issued.
07/17/1992		Sentence imposed: as to offense #004 M.C.I. Cedar Junction not more
07/17/1992		than 10 years, not less than 5 years concurrent with sentence imposed
07/17/1992		on offense #003. Mittimus Issued.
07/17/1992		Sentence credit given as per 279:33A: 235 days.
07/17/1992		Notified of right of appeal under Rule 64
07/17/1992		Notified of right of appeal under Rule 65

07/17/1992		Victim-witness fee assessed: \$50.00
07/17/1992		As to offense #005 Defendant discharged-verdict not guilty.
07/17/1992		As to offense #006 Defendant discharged-verdict not guilty. Irwin, J.
07/17/1992		- R. Miller, ADA - N. King, Attorney - B. Taub, Attorney.
07/21/1992	32	Notice of appeal filed.
07/21/1992	33	Defendant's notice of appeal under rule 64 filed. Irwin, J. Steadman,
07/21/1992	33	C.J. and J. Cremens, C.P.O. each notified.
07/21/1992	34	Motion by defense counsel to withdraw, filed. Irwin, J. notified with
07/21/1992	34	copy.
09/02/1992		Copy of notice of appeal mailed to Irwin, J. and R. Miller, ADA.
09/02/1992	35	Court Reporter N. King is hereby notified to prepare one copy of the
09/02/1992	35	transcript of the evidence. Certificate of Clerk-filed.
01/05/1993	36	Motion of Appellate Counsel to withdraw, filed. (Irwin, J. notified)
01/14/1993		Not in Court.
01/14/1993		Withdrawal of appearance requested by B. Taub.
01/14/1993		Committee for Public Counsel Services Appeals Division appointed. G.
01/14/1993		Wilson,AC/M - R. Powers, ADA - E.R.D.
04/28/1993		Transcript received from N.King, Court Reporter.
05/14/1993		Notice sent to attorneys that transcripts are available.
05/17/1993	37	Certificate of delivery of transcript by Clerk-filed.
06/09/1993		Second notice sent to Attorney Homans Re: Transcripts.
07/01/1993		Notice of assembly of record; mailed to App Crt per Rule 9(d)
07/01/1993		Two certified copies of docket entries, original and copy of
07/01/1993		transcript, two copies of exhibit list, list of documents, copy of
07/01/1993		Findings of Facts, Rulings of Law and Order on Defendant's Motions to
07/01/1993		Suppress Evidence and Statements and Notice of Appeal, each
07/01/1993		transmitted to Clerk of Appellate Court. (R.Miller, ADA K.McMahon,ADA
07/01/1993		and W.Homans,Attorney for defendant each notified)
07/15/1993	38	Certificate of delivery of transcript by Clerk-filed.
05/03/1996	39	Rescript rec'd from Appeals Court "Judgement affirmed," filed. (W.
05/03/1996	39	Homans, Atty. & K. McMahon, ADA each ntfd)
05/20/1998	40	Deft files motion for a new trial, affidavit of Kevin Norris.
05/20/1998	41	Deft files motion for the appointment of counsel. (Donovan, RAJ
05/20/1998	41	notified with copy)
05/29/1998		Motion (P#40) denied without a hearing. Donovan, R.A.J.; (defendant
05/29/1998		notified as to paper #40)
05/29/1998		Motion for appointment of counsel denied. Donovan, R.A.J.
06/19/1998	42	Deft files Pro Se notice of appeal.
06/19/1998	43	Deft files pro se motion for appointment of Appellate Counsel.
06/24/1998		Copy of Pro Se notice of appeal mailed to Donovan,J and
06/24/1998		J.Sullivan,ADA

06/25/1998		Notice of assembly of record; mailed to App Crt per Rule 9(d)
06/25/1998		Two certified of copies of docket entries, two copies of exhibit
06/25/1998		list, list of documents, and copy of Pro se Motion for New Trial,
06/25/1998		Motion for appointment of counsel and notice of appeal, each
06/25/1998		transmitted to Clerk of Appellate Court. (J.Sullivan,ADA - and
06/25/1998		K.Norris, Pro Se)
06/30/1998	44	Deft files motion to withdraw notice of appeal pending motion for
06/30/1998	44	reconsideration.
11/09/1998		Motion (P#44) denied received from Donovan, RAJ. See endorsement.
11/09/1998		(defendant, pro se notified with copy)
01/26/1999	45	Deft files pro se: Motion for scientific testing of certain physical
01/26/1999	45	evidence with affidavits in support of said motion. (Donovan, RAJ
01/26/1999	45	notified w/copy) Irwin, J. was original justice
02/23/1999		Paper No. 45 referred to Committee for Public Counsel per Donovan,
02/23/1999		RAJ. (Defendant and Julie Boyden, CPCS notified with copy of
02/23/1999		endorsement)
05/21/1999	46	Deft files: Pro-Se motion for free transcripts affidavit is support
05/21/1999	46	of. (Donovan, RAJ. notified w/copy).
06/02/1999		After due consideration by the Court, paper #46 (motion for free
06/02/1999		transcripts) denied.
12/01/1999	47	Rescript received from Appeals Court; "Orders Denying New Trial
12/01/1999	47	Motion and Motion for Reconsideration Affirmed", Filed.
05/02/2000	48	Deft files motion to test and inspect physical evidence for the
05/02/2000	48	purpose of DNA testing. (Spurlock, RAJ and R. Martin, DA notified
05/02/2000	48	w/copy)
05/02/2000		Appearance of Deft's Atty: David L Kelston, filed.
05/04/2000	49	Deft files motion for expenses. (Irwin, J original Justice -
05/04/2000	49	Spurlock, RAJ notified w/copy)
06/28/2000		Brought into Court
06/28/2000		Motion (P#48) allowed.
06/28/2000		Motion (P#49) allowed (Charles T. Spurlock, R. A. J.) - T. Lyons, ADA
06/28/2000		- M. McDonald, Court Reporter - N. Rosmarin, Atty.
08/03/2000		Appearance of Commonwealth's Atty: Tracy Lee Lyons, filed.
08/03/2000	50	Joint motion for additional expenses, filed.
08/03/2000		Motion (P#50) allowed (Charles T. Spurlock, RAJ) (D. Kelston,
08/03/2000		Attorney and T. Lyons, ADA notified)
01/24/2001	51	Withdrawal of appearance filed by David L Kelston.
08/26/2002	52	Deft files motion for post conviction relief (newly discovered
08/26/2002	52	evidence) with affidavit
08/26/2002	53	Deft files motin to inspect and examine tangible evidence with
08/26/2002	53	affidavit (Spurlock, RAJ and T. Lyons, ADA notified with copy)

09/06/2002		Court orders the Commonwealth to file a memorandum in opposition to
09/06/2002		defendant's Motions Paper Nos. 52(motion for post conviction relief
09/06/2002		(newly discovered evidence) with affidavit and Paper No. 53(motion to
09/06/2002		inspect and examine tangible evidence with affidavit) by 11/12/02.
09/06/2002		Spurlock, RAJ (T. Lyons, ADA and S. Bloomenthal, Atty notified 6/9/02)
09/12/2002	54	Commonwealth files notice of appearance and statement of opposition
09/12/2002	54	to defendant's motion for new trial. (Spurlock, RAJ and Bloomenthal,
09/12/2002	54	Atty. notified with copies and docket sheets)
11/12/2002	55	Commonwealth files motion to enlarge time for filing written
11/12/2002	55	memroandum of law in opposition to defendant's motion fo new trial
11/12/2002	55	and motion to examine evidence (Spurlock, RAJ and S. Bloomenthal,
11/12/2002	55	Attorney notified with copy and docket sheets)
11/18/2002		Motion (P#55) allowed. Commonwealth has to 12/17/02 to file.
11/18/2002		Spurlock, RAJ
11/20/2002	56	Deft files opposition to Commonwealth's motion to enlarge time.
11/20/2002	56	(Spurlock, RAJ & A. Lovell, ADA notified 12/3/02)
12/18/2002	57	Commonwealth files opposition to defendant's motion for
12/18/2002	57	post-conviction relief. (Spurlock, RAJ notified 1/7/03)
01/09/2003		Motion (P#52) denied without a hearing. Evidence regarding the towel
01/09/2003		was presented at trial, and indicatet the source could be anyone of
01/09/2003		the three people. Spurlock, RAJ (Lovell, ADA and Bloomenthal, Atty.
01/09/2003		with copies)
01/17/2003	58	Attorney Sandra Bloomenthal files motion to withdraw. (Spurlock, RAJ
01/17/2003	58	notified with copy and docket sheets 1/22/03)
01/17/2003	59	NOTICE of APPEAL FILED by Kevin Norris
01/23/2003		Withdrawal of appearance filed by Sandra F Bloomenthal allowed.
01/23/2003		Committee for Public Counsel Services, Appeals Division appointed.
01/23/2003		Spurlock, RAJ
01/28/2003		Copy of notice of appeal mailed to Spurlock,RAJ and A.Lovell,ADA
02/07/2003	60	Deft files motion for enlargement of time with affidavit.
02/21/2003	61	Deft files motion for inspection of documents and order compelling
02/21/2003	61	forensic testing of certain evidence with affidavit in support of
02/21/2003	61	motion for post conviction discovery.
02/21/2003	62	Deft files motion for reconsideration with affidavit.
02/21/2003	63	Deft files motion for hearing
02/21/2003	64	Deft files motion for leave to file amended motion for new trial .
02/21/2003	65	Deft files amended motion for new trial with affidavit and memorandum.
02/21/2003	66	Deft files motion to stay notice of appeal.
02/27/2003		Notice of completion of assembly of record sent to clerk of Appeals
02/27/2003		Court and attorney for the Commonwealth and defendant.
02/27/2003		Two (2) certified copies of docket entries, two (2) copies of exhibit

02/27/2003		list and list of documents, and copy of the notice appeal, copy of
02/27/2003		papers #52,54-57,59, Letters received from CPCS dated
02/27/2003		2-24-03,10-31-02 & 4-8-02, each transmitted to clerk of appellate
02/27/2003		court.(A.Lovell, ADA - J.Zanini, ADA and defendant notified)
02/28/2003	67	Deft files notice of entry from appeals court.
03/21/2003	68	General correspondence regarding filing of docket entry from the
03/21/2003	68	Appeals Court
03/28/2003		Motion (P#61) denied without a hearing. Spurlock, RAJ (Deft.
03/28/2003		notified with copy 3/31/03)
03/28/2003		Motion (P#62) denied without a hearing. Spurlock, RAJ (Deft notified
03/28/2003		3/31/03)
03/28/2003		Motion (P#63) denied without hearing. Spurlock, RAJ (Defendant
03/28/2003		notified 3/31/03)
03/28/2003		Motion (P#64) denied without a hearing. Spurlock, RAJ (Deft.
03/28/2003		notified 3/31/03)
03/28/2003		Motion (P#65) denied without a hearing. Spurlock, RAJ (Deft notified
03/28/2003		3/31/03)
03/28/2003		Motion (P#66) denied without a hearing. Spurlock, RAJ (Deft.
03/28/2003		notified 3/31/03)
04/11/2003	69	Deft files prose motion to stay sentence
04/11/2003	70	Deft files prose motion to clarify order
04/15/2003		Defendant's pro-se motion to stay sentence (P#69) is denied.
04/15/2003		Spurlock, RAJ.Copies mailed
04/15/2003		Defendant's pro-se motion to clarify Court order Motion (P#70)
04/15/2003		allowed. Spurlock, RAJ. Copies mailed April 15, 2003
04/15/2003		Committee for Public Counsel Services appointed. (NAC sent 4/16/03)
04/29/2003	71	NOTICE of APPEAL FILED by Kevin Norris, pro se
05/05/2003		Copy of notice of appeal mailed to Spurlock,J and A,Lovell, ADA and
05/05/2003		J.Zanini, ADA
05/07/2003		Notice of completion of assembly of record sent to clerk of Appeals
05/07/2003		Court and attorneys for the Commonwealth and defendant,pro se..
05/07/2003		Two (2) certified copies of docket entries, two (2) copies of
05/07/2003		exhibit list and list of documents, copy of Paper #64 and #65 with
05/07/2003		affidavit & memorandum and notice of appeal (#71), each transmitted
05/07/2003		to clerk of appellate court. (A.Lovell, ADA - J.Zanini,ADA -
05/07/2003		Defendant pro se)
05/12/2003		Notice of docket received from the Appeals Court
03/18/2004	72	Deft files motion for permission to communicate with Cellmark Lab
05/05/2004	73	Order received from Appellate Division that the judgments imposing
05/05/2004	73	said sentences stand and that said appeal be and is hereby dismissed.
05/05/2004	73	(Grabau, Graham & Quinlan, JJ).

09/02/2004	74	Deft files Request for a hearing on Motion to Revise and Revoke
09/02/2004	74	sentence.
09/02/2004	75	Deft files Motin to Revise and Revoke sentence and Affidavit of Kevin
09/02/2004	75	Norris Affidavit of Nicole Norris, Affidavit of Carla Norris
09/15/2004		Motion (P#74) denied without a hearing. Spurlock, RAJ
09/15/2004		Motion (P#75) denied without a hearing. Spurlock, RAJ
12/10/2004	76	Deft files motion to withdraw as counsel. (Spurlock, RAJ notified
12/10/2004	76	12/14/04)
12/16/2004		Motion (P#76) allowed. Spurlock, RAJ
10/06/2005	77	Deft files pro se motion to correct sentence. (Spurlock J notified
10/06/2005	77	with copy and dockets)
10/20/2005	78	Notice of Docket Entry received from the Supreme Judicial Court:
10/20/2005	78	Judgement: denying relief under c.211, s.3 without hearing(Cowin, J.)
10/20/2005	78	filed.
11/02/2005	79	Notice of docket Entry of appeal received from the Supreme Judicial
11/02/2005	79	Court: Motion for reconsideration of paper #9 and Court order filed
11/02/2005	79	by Kevin Norris pro se. (10/31/05 motion for reconsideration of paper
11/02/2005	79	#9 and Court order is denied without hearing. By the Court (Cowin J)
11/02/2005	79	filed.
12/22/2005		Notice from Committee for Public Counsel re: appointment of Attorney
12/22/2005		Richard Fallon filed.

Charges

9 Charges for Docket: SUCR1991-25197

No.	Charge Description:	Indictment:	Status:
1	Assault, dangerous weapon	SUDA91-25197	Guilty verdict
2	Kidnap	SUDA91-25197	Not guilty verdict
3	Assault & battery, dangerous weapon	SUDA91-25197	Not guilty verdict
4	Robbery, armed	SUDA91-25197	Guilty verdict
5	Robbery, armed	SUDA91-25197	Guilty verdict
6	Robbery, armed	SUDA91-25197	Guilty verdict
7	Rape, aggravated	SUDA91-25197	Guilty verdict
8	Rape, aggravated	SUDA91-25197	Guilty verdict
9	Rape, aggravated	SUDA91-25197	Guilty verdict